Inland Empire Waterkeeper
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October 8, 2013

VIA CERTIFIED MAIL

Burrtec Waste Group, Inc.
9890 Cherry Avenue
Fontana, California 92335

Burrtec Waste Industries, Inc.
9890 Cherry Avenue
Fontana, California 92335

West Valley Recycling and Transfer, Inc.
9890 Cherry Avenue
Fontana, California 92335

West Valley MRF, LLC
Attention: Managing Agent
13373 Napa Street
Fontana, California 92335

VIA U.S MAIL

Cole Burr
Registered Agent
Burrtec Waste Group, Inc.
9890 Cherry Avenue
Fontana, California 92335

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Burrtec Waste Industries, Inc.
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Cole Burr
Registered Agent
West Valley Mrf, LLC
9890 Cherry Avenue
Fontana, California 92335

Re: Notice of Violation and Intent to File Suit Under the Clean Water Act

To Whom It May Concern:

I am writing on behalf of Inland Empire Waterkeeper and Orange County Coastkeeper (collectively "Waterkeeper") in regard to violations of the Clean Water Act[1] and California's Storm Water Permit[2] occurring at: 13373 Napa Street, Fontana, California 92335 ("West Valley Facility" or "Facility"). This letter is being sent to you as the responsible owners and/or operators of the West Valley Facility, or as the registered agent for those entities. This letter puts Burrtec Waste Group, Inc., Burrtec Waste Industries, Inc., West Valley Recycling and Transfer, Inc., and West Valley MRF, LLC, (hereinafter referred to as the "West Valley Owners and/or Operators")

[1] Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*
[2] National Pollution Discharge Elimination System ("NPDES") General Permit No. CAS000001 [State Water Resources Control Board] Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ.

on notice of the violations of the Storm Water Permit occurring at the West Valley Facility. These violations include, but are not limited to, discharges of polluted storm water from the West Valley Facility into local surface waters. Violations of the Storm Water Permit are violations of the Clean Water Act. As explained below, the West Valley Facility Owners and/or Operators are liable for violations of the Storm Water Permit and the Clean Water Act.

Section 505(b) of the Clean Water Act, 33 U.S.C. § 1365(b), requires that a citizen give notice of his/her intention to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(a). Notice must be given to the alleged violator, the Administrator of the United States Environmental Protection Agency ("EPA"), the Regional Administrator of the EPA, the Executive Officer of the water pollution control agency in the State in which the violations occur, and, if the alleged violator is a corporation, the registered agent of the corporation. *See* 40 C.F.R. § 135.2(a)(1).

By this letter issued pursuant to 33 U.S.C. §§ 1365(a) and (b) of the Clean Water Act, (hereinafter "Notice Letter"), Waterkeeper puts the West Valley Owners and/or Operators on notice that, after the expiration of sixty (60) days from the date of this Notice Letter, Waterkeeper intends to file an enforcement action in Federal court against them for violations of the Storm Water Permit and the Clean Water Act.

I. BACKGROUND

A. Inland Empire Waterkeeper and Orange County Coastkeeper

Inland Empire Waterkeeper's office is located at 6876 Indiana Avenue, Suite D, Riverside, California 92506. Inland Empire Waterkeeper is a chapter of Orange County Coastkeeper. Orange County Coastkeeper is a non-profit public benefit corporation organized under the laws of the State of California with its office at 3151 Airway Avenue, Suite F-110, Costa Mesa, California 92626. Together, Inland Empire Waterkeeper and Orange County Coastkeeper have over 2,000 members who live and/or recreate in and around San Bernardino County and the Santa Ana River watershed. Inland Empire Waterkeeper and Orange County Coastkeeper are dedicated to the preservation, protection, and defense of the environment, wildlife, and natural resources of their local watersheds, including the Santa Ana River and its tributaries. To further these goals, Waterkeeper actively seeks federal and state agency implementation of the Clean Water Act, and, where necessary, directly initiates enforcement actions on behalf of itself and its members.

Members of Waterkeeper use and enjoy the waters into which the West Valley Facility discharges, including the Santa Ana River and its tributaries. Members of Waterkeeper use and enjoy the Santa Ana River and its tributaries to picnic, hike, view wildlife, and engage in scientific study including, monitoring activities, among other activities. Procedural and substantive violations, including, but not limited to, the discharge of pollutants from the West Valley Facility, impairs each of these uses. Further, these violations are ongoing and continuous. Thus, the interests of Waterkeeper's members have been, are being, and will continue to be

adversely affected by the West Valley Facility owners' and/or operators' failure to comply with the Clean Water Act and the Storm Water Permit.

B. The Owners and/or Operators of the West Valley Facility

Prior to beginning industrial operations, dischargers are required to apply for coverage under the Storm Water Permit by submitting a Notice of Intent ("NOI") to the State Water Resources Control Board ("State Board") to obtain Storm Water Permit coverage. *See* Storm Water Permit, Finding #3. Waterkeeper obtained 2 NOIs for the Facility. One NOI is signed by Eric Herbert, who is identified as the Vice-President, and is dated February 4, 1998. This NOI identifies the operator of the West Valley Facility as "West Valley Mrf LLC," and the Facility name and location as "West Valley Mrf LLC, 13373 Napa St., Fontana." A second NOI is unsigned and dated July 6, 2012, and identifies the Facility operator and location as "West Valley Mrf LLC, 13373 Napa St., Fontana," and the Facility's Waste Discharge Identification ("WDID") number as 8-36I013750.

Information available to Waterkeeper indicates that West Valley Mrf, LLC is an owner and/or operator of the West Valley Facility. Information available to Waterkeeper indicates that West Valley Recycling & Transfer Inc. is an owner and/or operator of the West Valley Facility. Information available to Waterkeeper indicates that Burrtec Waste Industries, Inc. is an owner and/or operator of the West Valley Facility. Finally, information available to Waterkeeper indicates that Burrtec Waste Group, Inc. is an owner and/or operator of the West Valley Facility.

Burrtec Waste Group, Inc., Burrtec Waste Industries, Inc., and West Valley Recycling and Transfer Inc. are active corporations registered in California. West Valley Mrf LLC is an active limited liability company registered in California. The Registered Agent for Burrtec Waste Group, Inc., Burrtec Waste Industries, Inc., West Valley Recycling and Transfer Inc., and West Valley Mrf LLC is: Cole Burr, 9890 Cherry Avenue, Fontana, California 92335.

The West Valley Facility Owners and/or Operators have violated and continue to violate the procedural and substantive terms of the Storm Water Permit, including but not limited to the illegal discharge of pollutants from the West Valley Facility into local surface waters. As explained herein, the West Valley Facility Owners and/or Operators are liable for violations of the Storm Water Permit and the Clean Water Act.

C. Storm Water Pollution and the Waters Receiving West Valley Facility's Discharges

With every significant rainfall event, millions of gallons of polluted storm water originating from industrial operations such as the West Valley Facility pour into storm drains and local waterways. The consensus among agencies and water quality specialists is that storm water pollution accounts for more than half of the total pollution entering surface waters each year. Such discharges of pollutants from industrial facilities contribute to the impairment of downstream waters and adversely impact aquatic-dependent wildlife. These contaminated discharges can and must be controlled for downstream ecosystems to regain their health.

Storm water discharges from waste transfer and recycling facilities like the West Valley Facility contain pollutants such as: oil and grease ("O&G"); hydraulic fluids; transmission fluid; antifreeze; total suspended solids ("TSS"); heavy metals (such as copper, iron, lead, aluminum, and zinc); pathogens; nutrients; solvents; cleaning detergents; and pesticides. Many of these pollutants are on the list of chemicals published by the State of California as known to cause cancer, birth defects, and/or developmental or reproductive harm. Discharges of polluted storm water to the Santa Ana River and its tributaries pose carcinogenic and reproductive toxicity threats to the public and adversely affect the aquatic environment.

The West Valley Facility discharges into the San Sevaine Channel,[3] which is a tributary to the Santa Ana River (hereinafter collectively "Receiving Waters"). The Santa Ana River is an ecologically sensitive area. Although pollution and habitat destruction have drastically diminished once-abundant and varied fisheries, the Receiving Waters still provide essential habitat for dozens of fish, bird, and invertebrate species. Polluted discharges form the Facility harm the special aesthetic and recreational significance that the Receiving Waters have for people in the surrounding communities, including Waterkeeper's members. The public's use of the Receiving Waters for water contact sports exposes people to toxic metals and other contaminants in storm water and non-storm water discharges. Non-contact recreational and aesthetic opportunities, such as wildlife observation, are also impaired by polluted discharges to the Receiving Waters.

The California Regional Water Quality Control Board, Santa Ana Region Regional Board ("Regional Board") issued the *Santa Ana River Basin Water Quality Control Plan* ("Basin Plan"). The Basin Plan identifies the "Beneficial Uses" of water bodies in the region. The Beneficial Uses for the Santa Ana River near or downstream of the point at which it receives polluted storm water discharges from the West Valley Facility by way of the San Sevaine Channel (i.e., Santa Ana River Reaches 1 – 3) include: Agricultural Supply; Groundwater Recharge; Water Contact Recreation; Non-contact Water Recreation; Warm Freshwater Habitat; Wildlife Habitat; and Rare, Threatened or Endangered Species. *See* Basin Plan at Table 3-1. According to the 2010 303(d) List of Impaired Water Bodies, Reach 3 of the Santa Ana River, into which the San Sevaine Channel drains, is impaired for copper, lead, and pathogens, and Reach 2 of the Santa Ana River is impaired for indicator bacteria.[4] Polluted discharges from industrial sites such as the West Valley Facility contribute to the degradation of these already impaired surface waters and of the ecosystems that depend on these waters.

II. THE WEST VALLEY FACILITY AND ASSOCIATED DISCHARGES OF POLLUTANTS

A. West Valley Facility Site Description

[3] The West Valley Owners and/or Operators list San Sevaine Creek as the receiving water on their NOI, which is the same waterbody as the San Sevaine Channel

[4] 2010 Integrated Report – All Assessed Waters, available at: http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml, (last accessed on July 8, 2013).

The West Valley Facility Storm Water Pollution Prevention Plan ("SWPPP") and NOI state that the West Valley Facility is 29.2 acres in size, 42% of which is impervious.[5] The SWPPP also states that the Materials Recovery Facility ("MRF")/Transfer Station building is the main building on site. Within this building the MRF is located adjacent to and north of the transfer station. This building also includes a buy-back center, a mixed waste processing area for select commercial loads with high recyclable content, and administrative offices. The transfer tunnel is located on the south side below the tipping floor of the MRF/Transfer Station building. A hazardous waste storage area is located at the building's southwest corner. The exterior of the building has a loading dock on the east side with employee parking to the north. The vehicle maintenance building and fueling station are located to the east of the MRF/Transfer Station building. Two scale houses and scales facilities are located on site along with a tarping station. Green waste processing areas are located in the northwest corner of the site and to south of the MRF/Transfer Station building. West of the main truck access there is an area for processing construction, demolition, and inert materials. Additional employee parking is located southeast of the green waste area. Information available to Waterkeeper indicates that after the SWPPP was written, the Facility expanded to include a 100-ton/day aerated static pile ("ASP") food and greenwaste composting facility.

B. West Valley Facility Industrial Activities and Associated Pollutants

The West Valley Facility SWPPP identifies the Facility as a waste recovery, transfer, and recycling station. The SWPPP states that the Facility receives municipal solid waste, source-separated materials, green and wood wastes, construction and demolition debris, and hazardous waste, all of which are sorted at the Facility. Recyclable material is removed and marketed, green and wood wastes are ground and transferred offsite for reuse, and residual wastes are removed to a landfill. The West Valley Facility Owners' and/or Operators' industrial activities are pollutant sources and include, but are not limited to: processing, loading, and unloading of solid waste and recyclable materials such as hazardous materials, green/wood waste, and construction/demolition materials; green waste grinding; storage of solid waste materials including, but not limited to, household hazardous materials; vehicle and equipment cleaning operations; vehicle and equipment refueling; vehicle and equipment maintenance; storage of materials associated with equipment and vehicle maintenance; and storage of vehicles and equipment. West Valley Facility Owners and/or Operators also store and/or generate hazardous waste fluids, such as oil, hydraulic fluid, brake fluid, and antifreeze.

The 1998 and 2012 NOIs for the Facility classify the Facility under the Standard Industrial Classification ("SIC") Codes 4212 (Local Trucking, Without Storage) and 5093 (Scrap and Waste Material Recycling). The Facility SWPPP lists the SIC Codes for the Facility as 4212, 5093, and 4953 (Hazardous Waste Treatment Storage or Disposal). Facilities classified under SIC Codes 4953 and 5093 require Storm Water Permit coverage for the entire facility. For facilities classified as SIC Code 4212, the Storm Water Permit requires permit coverage for "vehicle maintenance shops, equipment cleaning operations, or airport deicing operations." Storm Water Permit, Attachment 1. The Storm Water Permit regulates the portions of the facility

[5] Information available to Waterkeeper indicates that the Facility is over 33 acres.

which are used for "vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication) or other operations identified herein that are associated with industrial activity." Storm Water Permit, Attachment 1; *see also* Storm Water Permit, Attachment 4 (stating that "storm water associated with industrial activity" includes storm water discharges from material handling activities and storage areas for material handling equipment). Waterkeeper puts the West Valley Facility Owners and/or Operators on notice that one or more of these regulated activities is conducted at locations throughout the entire West Valley Facility, and thus the entire Facility requires Storm Water Permit coverage. In addition, even if the regulated industrial activities are not occurring throughout the entire Facility at all times, under the Storm Water Permit's definition of "storm water associated with industrial activities" and explanation of material handling activities, Waterkeeper puts the West Valley Facility Owners and/or Operators on notice that since no best management practices ("BMPs") or other controls exist to separate the storm water flows from portions of the Facility where non-regulated activities may occur from storm water flows from the regulated industrial activities, storm water at the Facility commingles and thus, all storm water discharges from the Facility are regulated under the Storm Water Permit.

The pollutants associated with operations at the West Valley Facility include, but are not limited to: O&G; hydraulic fluids; transmission fluid; antifreeze; TSS; heavy metals (such as copper, iron, lead, aluminum, and zinc); pathogens; nutrients; and fugitive and other dust, dirt, and debris. The SWPPP lists "Acids & Bases, Aromatic Hydrocarbons, Chemical Oxygen Demand, Chlorides, Chlorinated Hydrocarbons, Metals, Oil & Grease, Organic Carbons, and Sulfates" as potential pollutants.

Information available to Waterkeeper indicates that the Facility includes an uncovered loading dock, an uncovered employee parking lot, an uncovered fueling area, and an uncovered scaling facility. There is also an unpaved, uncovered area for processing construction, demolition, and other materials. Finally, an uncovered green waste processing area, and an unpaved, uncovered green waste processing area are located at the Facility. Thus, fueling, loading and unloading of waste materials, storage of waste materials, demolition and grinding of waste materials, and other industrial activities occur at the West Valley Facility without adequate cover or other BMPs to prevent storm water and non-storm water exposure to pollutant sources, and without secondary containment or other BMPs to prevent polluted water from discharging from the West Valley Facility. Further, the Facility has inadequate treatment, to reduce the levels of pollutants in storm water and non-storm water discharges as required by the Storm Water Permit. The resulting illegal discharges of polluted water impact Waterkeeper's members' use and enjoyment of the Receiving Waters by degrading the quality of the Receiving Waters and by posing risks to human health and aquatic life.

C. West Valley Facility Storm Water Flow and Discharge Locations

The West Valley Facility SWPPP divides the Facility into six different drainage areas, Area A – Area F, and includes the following descriptions: Area A consists of 2.8 acres of dirt west of the main building; Area B consists of 2.0 paved acres to the north and west of the main building; Area C consists of 2.1 acres of pavement and landscaped slopes to the southeast of the

main building; Area D consists of 8.0 paved acres that include the east entry to the Facility and access ramp, the west entry ramp, and a portion of the operations ramp located to the south of the main building; Area E consists of 3.0 paved acres where green waste is processed to the south of the main building; and Area F consists of 1.6 unpaved acres near the Facility's southern boundary where "overflow equipment" is stored. The SWPPP states that there are two storm drain lines, Line A and Line B, into which all storm water on the Facility drains. Drainage Areas A, B, C and D drain to Line A; drainage areas E and F drain to Line B. Both Line A and Line B have storm water filter devices ("Vortechs Systems") through which storm water flows before it is discharged into a channel, (identified on the site map as "Existing Concrete Channel") directly to the east of the Facility. The Existing Concrete Channel empties into the San Sevaine Channel.

The Facility's 2012-2013 Annual Report indicates that the Facility has four discharge points, labeled as "DP 1 Greenwaste Drain," "DP 2 Southwest Drain (MP1)," "DP 3 Center Inlet," and "DP 4 Clarifier Test Point (MP2)." Neither the narrative portion of the SWPPP nor the site map identifies the location of these discharge points. However, based on Waterkeeper's review of the site map, the storm water discharges points at the West Valley Facility include: the point at which Line A discharges to the Existing Concrete Channel; the point at which Line B discharges to the Existing Concrete Channel; eastward storm water flow from the parking lot into the Existing Concrete Channel; westward flow of storm water from Areas A and E onto the adjacent lot; and at least five discharge points along Napa Street. The discharge points along Napa Street include two discharge points at each of the two driveways – one discharge point located at the western curb of each driveway, along which water flows to Napa Street, and one located at the eastern curb of each driveway, along which water flows to Napa Street. There are also three drain outlets to Napa Street in addition to the driveways.

III. VIOLATIONS OF THE CLEAN WATER ACT AND THE STORM WATER PERMIT

A. Discharges of Polluted Storm Water from the West Valley Facility in Violation of Effluent Limitation B(3) of the Storm Water Permit

Effluent Limitation (B)(3) of the Storm Water Permit requires dischargers to reduce or prevent pollutants associated with industrial activity in storm water discharges through implementation of BMPs that achieve best available technology economically achievable ("BAT") for toxic pollutants[6] and best conventional pollutant control technology ("BCT") for conventional pollutants.[7] EPA's Industrial Storm Water Permit contains benchmark values, which are objective standards for evaluating whether a permittee's BMPs achieve compliance with BAT/BCT, as required by Effluent Limitation B(3) of the Storm Water Permit ("EPA Benchmarks").[8]

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[6] Toxic pollutants are listed at 40 C.F.R. § 401.15 and include copper, lead, and zinc, among others.

[7] Conventional pollutants are listed at 40 C.F.R. § 401.16 and include BOD, TSS, O & G, pH, and fecal coliform.

[8] *See United States Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP) Authorization to Discharge Under the National Pollutant Discharge Elimination System*, as modified effective May 27, 2009 ("Multi-Sector Permit"), Fact Sheet at 106; *see also*, 73 Federal Register 56572 (2008).

Storm water sampling at the West Valley Facility demonstrates that concentrations of pollutants in storm water discharges from the Facility exceed applicable EPA Benchmarks. Attachment A contains a table with the dates on which storm water samples reported by West Valley Facility Owners and/or Operators since the 2008-2009 Annual Report exceed an EPA Benchmark. Moreover, the Regional Board inspected the Facility in 2000, and specifically put the West Valley Facility Owners and/or Operators on notification that their BMPs were inadequate and ineffective. Despite this notice there is no evidence that the West Valley Facility Owners and/or Operators properly addressed the deficiencies or remedied the violations. Finally, the West Valley Facility Owners and/or Operators acknowledge in their 2010-2011 and 2011-2012 Annual Reports that high pollutant concentrations in the Facility's storm water discharges are ongoing and constitute violations of the Storm Water Permit. Thus, the West Valley Facility Owners and/or Operators are aware that BMPs fail to prevent the discharge of polluted storm water from the Facility, yet they continue to fail to develop and/or implement BMPs necessary to achieve compliance with the Storm Water Permit.

The repeated exceedances of EPA Benchmarks demonstrate that the West Valley Facility Owners and/or Operators have failed to develop and/or implement required BMPs at the Facility that achieve compliance with the BAT/BCT standards. Waterkeeper puts the West Valley Facility Owners and/or Operators on notice that they violate Effluent Limitation B(3) of the Storm Water Permit each time storm water discharges from the Facility without BMPs that achieve BAT/BCT, including but not limited to the dates identified in Attachment A. These violations are ongoing and will continue every time the West Valley Facility Owners and/or Operators discharges polluted storm water without developing and/or implementing BMPs that achieve compliance with the BAT/BCT standards. Waterkeeper will update the dates of violations when additional information and data become available. Each time the West Valley Facility Owners and/or Operators discharge polluted storm water in violation of Effluent Limitation B(3) of the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). The West Valley Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since October 8, 2008.

B. Discharges of Polluted Storm Water from the West Valley Facility in Violation of Receiving Water Limitations C(1) and C(2) of the Storm Water Permit

Receiving Water Limitation C(1) of the Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges to surface water or groundwater that adversely impact human health or the environment. Discharges that contain pollutants in concentrations that exceed levels known to adversely impact aquatic species and the environment constitute violations of Receiving Water Limitation C(1) of the Storm Water Permit and the Clean Water Act. Receiving Water Limitation C(2) of the Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an

exceedance of an applicable Water Quality Standard ("WQS").[9] Applicable WQS include, among others, the Criteria for Priority Toxic Pollutants in the State of California, 40 C.F.R. § 131.38 ("CTR"). The Basin Plan sets out additional WQSs, including WQSs for total coliform and fecal coliform when the Beneficial Uses of a lake or stream include Municipal and Domestic Supply, Non-contact Water Recreation, and Water Contact Recreation, such as the Receiving Waters. Discharges that contain pollutants in excess of an applicable WQS violate Receiving Water Limitation C(2) of the Storm Water Permit and the Clean Water Act.

Information available to Waterkeeper indicates that storm water discharges from the West Valley Facility contain elevated concentrations of pollutants such as copper, lead, iron, aluminum, zinc, and pathogens, including coliform bacteria and *Escherichia coli*, among others. The Receiving Waters are impaired for copper, lead, and pathogens. Information available to Waterkeeper indicates that storm water discharges from the West Valley Facility containing elevated concentrations of pollutants can be acutely toxic and/or have sub-lethal impacts on the avian and aquatic wildlife in the Receiving Waters. Information available to Waterkeeper further indicates that storm water discharges from the West Valley Facility containing elevated concentrations of pollutants cause or contribute to a violation of an applicable WQS. Attachment A contains a table with the dates on which storm water samples reported by the West Valley Facility Owners and/or Operators since the 2008-2009 Annual Report exceeded a CTR WQS. Moreover, as described in Section A above, the West Valley Facility Owners and/or Operators have been on notice since at least 2000 that their BMPs are inadequate, and by their own admission that the high levels of pollutants in the Facility's storm water discharges are violations of the Storm Water Permit.

The repeated exceedances of CTR limits demonstrate that the West Valley Facility Owners and/or Operators have violated and continue to violate Receiving Water Limitation C(1) and/or Receiving Water Limitation C(2). Waterkeeper puts West Valley Facility Owners and/or Operators on notice that they violate Receiving Water Limitation C(1) and/or Receiving Water Limitation C(2) each time storm water discharges from the Facility containing pollutants that adversely affect human health or the environment and/or cause or contribute to a violation of an applicable WQS including, but not limited to, the dates identified in Attachment A. Each time that discharges of storm water from the West Valley Facility adversely impact human health or the environment is a separate and distinct violation of Receiving Water Limitation C(1) of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). Each time that discharges of storm water from the West Valley Facility cause or contribute to a violation of an applicable WQS is a separate and distinct violation of Receiving Water Limitation C(2) of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). These discharge violations are ongoing and Waterkeeper will update the dates of violation when additional information and data becomes available. The West Valley Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since at least October 8, 2008.

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[9] WQS include pollutant concentration levels determined by the State Water Resources Control Board and the EPA to be protective of the Beneficial Uses of receiving waters. Discharges above WQS contribute to the impairment of the receiving waters' Beneficial Uses.

C. Unauthorized and Authorized Non-Storm Water Discharges from the West Valley Facility in Violation of Discharge Prohibition A(1) of the Storm Water Permit

Except as authorized by Special Conditions D(1) of the Storm Water Permit, Discharge Prohibition A(1) prohibits permittees from discharging materials other than storm water (non-storm water discharges) either directly or indirectly to waters of the United States. Prohibited non-storm water discharges must be either eliminated or permitted by a separate NPDES permit. *See* Storm Water Permit, Discharge Prohibition A(1).

Information available to Waterkeeper indicates that non-storm water discharges from the Facility due to inadequate BMP development and/or implementation necessary to prevent these discharges. In fact, the Annual Reports document observations of unauthorized non-storm water at the Facility from outdoor washing, cleaning and/or dust control activities, yet there are no BMPs that will prevent these discharges. The Regional Board notified the West Valley Facility Owners and/or Operators of unauthorized non-storm water discharges, which were observed from the western side of the Facility during the Board's inspection. Information available to Waterkeeper indicates that the West Valley Facility Owners and/or Operators have not obtained a separate NPDES permit for the Facility's unauthorized non-storm water discharges, as thus these discharges are in violation of Discharge Prohibition A(1) of the Storm Water Permit.

Certain non-storm water discharges are allowed, such as fire hydrant flushing, drinking fountain water, and landscape watering, only if all requirements under Special Conditions D(1) of the Storm Water Permit are met. Special Conditions D(1) requires, among other things, the development and implementation of BMPs, which must be specifically listed in the SWPPP, to prevent or reduce the contact of non-storm water discharges with significant materials or equipment. The non-storm water discharges also cannot contain significant quantities of pollutants. Thus, even the non-storm water discharges listed in Special Condition D(1), such as irrigation drainage, are prohibited at the Facility because the West Valley Facility Owners and/or Operators have not developed or implemented the required BMPs to prevent pollutant exposure to the non-storm water, and are otherwise not in compliance with Special Conditions D(1) that would authorize such discharges. These non-storm water discharges are not authorized by a separate NPDES permit or subject to Special Condition D(1). Therefore, the West Valley Facility Owners and/or Operators are in violation of the Storm Water Permit for these prohibited non-storm water discharges.

Waterkeeper puts the West Valley Facility Owners and/or Operators on notice that Discharge Prohibition A(1) of the Storm Water Permit is violated each time non-storm water is discharged from the West Valley Facility. These non-storm water discharge violations are ongoing and will continue until the West Valley Facility Owners and/or Operators develop and implement BMPs that prevent prohibited non-storm water discharges, or obtain separate NPDES permit coverage. Each time the West Valley Facility Owners and/or Operators discharge prohibited non-storm water in violation of Discharge Prohibition A(1) of the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). West Valley Facility Owners and/or Operators are subject to

civil penalties for all violations of the Clean Water Act occurring since October 8, 2008.

D. Failure to Develop, Implement and/or Revise an Adequate Storm Water Pollution Prevention Plan

Section A(1) and Provision E(2) of the Storm Water Permit requires dischargers to have developed and implemented a SWPPP by October 1, 1992, or prior to beginning industrial activities, that meets all of the requirements of the Storm Water Permit. The objective of the SWPPP requirement is to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges, and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. Storm Water Permit, Section A(2). These BMPs must achieve compliance with the Storm Water Permit's Effluent Limitations and Receiving Water Limitations. To ensure compliance with the Storm Water Permit, the SWPPP must be evaluated on an annual basis pursuant to the requirements of Section A(9). The SWPPP must also be revised as necessary to ensure compliance with the Storm Water Permit. *Id.,* Sections A(9) and A(10).

Sections A(3) – A(10) of the Storm Water Permit set forth the requirements for a SWPPP. Among other information, the SWPPP must include: identification of individual(s) and their responsibilities in developing, implementing, and revising the facility's SWPPP (*see* Section A(3)(a)); a site map with notes, legends, and other data as appropriate to ensure that the site map is clear and understandable, and information including the location of the conveyance system and associated points of discharge (*see id.,* Section A(4)); a list of significant materials handled and stored at the facility (*see id.,* Section A(5)); and a description of the potential pollutant sources at the facility (*see id.,* Section A(6)). Sections A(7) and A(8) require an assessment of potential pollutant sources at the facility and a description of the BMPs to be implemented at the facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective.

Information available to Waterkeeper indicates that the West Valley Facility Owners and/or Operators have been conducting and continue to conduct operations at the West Valley Facility with an inadequately developed, implemented, and/or revised SWPPP. For example, the Regional Board notified the West Valley Facility Owners and/or Operators in 2000 that the SWPPP did not meet the requirements of the Storm Water Permit. Information available to Waterkeeper indicates that West Valley Facility Owners' and/or Operators' most recent SWPPP is dated June 2009. However, since June 2009, polluted storm water has discharged from the West Valley Facility each Wet Season, evidencing that West Valley Facility Owners and/or Operators have inadequately developed and/or implemented BMPs at the West Valley Facility, and/or failed to revise the SWPPP to address the ongoing and continuing violations of the Storm Water Permit. In fact, the West Valley Facility Owners and/or Operators noted in the 2010-2011 Annual Report that the SWPPP should be updated, but it has not been revised since it was developed in 2009. Thus, the West Valley Facility Owners and/or Operators have failed and continue to fail to develop and/or implement a SWPPP that contains adequate BMPs to prevent

the exposure of pollutant sources to storm water and the subsequent discharge of polluted storm water from the West Valley Facility.

In addition, the SWPPP fails to identify all significant materials handled and stored at the Facility. The West Valley Facility SWPPP indicates that a list of significant materials that may come into contact with storm water is included in Worksheet No. 2 in Appendix B of the SWPPP. However, the Worksheet No. 2 attached to the SWPPP is blank. Therefore, in violation of Section A(5), the West Valley Facility Owners and/or Operators failed to include in their SWPPP a list of significant materials handled and stored at the Facility.

The SWPPP also fails to comply with the Storm Water Permit because it lacks the required descriptions and assessments of all potential pollutant sources, and fails to describe the BMPs to be implemented at the Facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges. For example, the site map and the SWPPP reference a storage area for hazardous materials that is located outside of the main building. However, the SWPPP does not contain a description or assessment of this hazardous materials storage area as a potential source of pollution. Because the SWPPP fails to describe and assess the hazardous waste storage area as a potential source of pollution, it also fails to develop corresponding BMPs to reduce or prevent the contamination of storm water with pollutants associated with the storage of hazardous waste. The SWPPP also fails to list the BMPs to be implemented, and has no BMPs to prevent non-storm water discharges. The SWPPP thus is not in compliance with Sections A(6), A(7), and A(8) of the Storm Water Permit.

The SWPPP also fails to include site map that incorporates all the information required by the Storm Water Permit, such as each storm water discharge point and the storm water collection and conveyance system. The West Valley Owners and/or Operators also document in several Annual Reports the need for the site map to be revised to identify the "Pilot Compost Facility" located at the Facility, but this revision has never been made. The site map also fails identify areas of erosion. Finally, the site map does not include notes, legends, or other data needed to identify the meaning of all of the types of lines used on the site map to outline certain features. The SWPPP is therefore not in compliance with Section A(4) of the Storm Water Permit.

Finally, the West Valley Facility Owners and/or Operators fail to identify in their SWPPP the current storm water pollution prevention team, in violation of Section A(3)(a) of the Storm Water Permit. Specifically, the SWPPP lists "Richard Crocket, General Manager" as the Storm Water Pollution Prevention Manager authorized to sign all reports and certifications required by the State Permit; the SWPPP does not identify any other employees responsible for storm water pollution prevention. However, Mr. Crocket has not signed the West Valley Facility Annual Reports for at least the past five years. In fact, the 2010-2011 Annual Report notes that the SWPPP needs to be revised to identify the current pollution prevention team, yet the SWPPP has not been revised to incorporate this required information. Therefore, the SWPPP fails to accurately identify the "responsibilities, duties and activities" of each pollution prevention team member as required. *See* Storm Water Permit, Section A(3)(a). Finally, the SWPPP has not been revised to include the changed activities and expansion of operations at the Facility.

Waterkeeper puts the West Valley Facility Owners and/or Operators on notice that they violate Section A and Provision E(2) of the Storm Water Permit and the Clean Water Act every day that they operate the West Valley Facility with an inadequately developed, implemented, and/or revised SWPPP. Every day that the West Valley Facility Owners and/or Operators operate the Facility with an inadequately developed, implemented, and/or revised SWPPP is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The West Valley Facility Owners and/or Operators have been in daily and continuous violation of the Storm Water Permit's SWPPP requirements. These violations are ongoing and Waterkeeper will include additional violations in its enforcement action. The West Valley Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since October 8, 2008.

E. Failure to Develop, Implement, and/or Revise an Adequate Monitoring and Reporting Program

Section B(1) and Provision E(3) of the Storm Water Permit requires facility operators to develop and implement a monitoring and reporting plan ("M&RP") by October 1, 1992, or prior to the commencement of industrial activities at a facility, that meets all of the requirements of the Storm Water Permit. The primary objective of the M&RP is to detect and measure the concentrations of pollutants in a facility's discharge to ensure compliance with the Storm Water Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. *See* Storm Water Permit, Section B(2). The M&RP must therefore ensure that BMPs are effective, and are evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. Dischargers must revise and update the M&RP to reflect current BMPs, and as otherwise required by the Storm Water Permit. *See id.*, *see also id.,* Section B(4).

Sections B(3) – B(16) of the Storm Water Permit set forth the M&RP requirements. Specifically, Section B(3) requires dischargers to conduct quarterly visual observations of all drainage areas within their facility for the presence of authorized and unauthorized non-storm water discharges. Section B(4) requires dischargers to conduct visual observations of storm water discharges during the first hour of discharge at each discharge point of at least one storm event per month during the Wet Season.[10] Sections B(3) and B(4) further require dischargers to document the presence of any floating or suspended material, O&G, discolorations, turbidity, odor and the source of any pollutants when conducting visual observations. Dischargers must maintain records of observations, observation dates, locations observed, and responses taken to eliminate unauthorized non-storm water discharges and to reduce or prevent pollutants from contacting non-storm water and storm water discharges. *Id.*, Sections B(3) and B(4).

Sections B(5) and B(7) of the Storm Water Permit require dischargers to collect samples of storm water discharges from all locations where storm water is discharged. Under Section B(5) of the Storm Water Permit, the West Valley Facility Owners and/or Operators are required to collect at least two samples from each discharge point each wet season, including one sample

[10] The Wet Season is defined from October 1 through May 31.

from the first storm event of the Wet Season. These samples must be taken during the first hour of discharge. Storm water samples shall be analyzed for TSS, pH, specific conductance, and total organic carbon or O&G. Storm Water Permit, Section B(5)(c)(i). These samples shall also be analyzed for toxic pollutants and other pollutants that are likely to be present in storm water discharges in significant quantities. *Id.*, Section B(5)(c)(ii). Finally, the West Valley Facility is classified as SIC Codes 4953 and 5093 so he Facility's storm water samples must be analyzed for: Ammonia (NH3), Magnesium (Mg), Chemical Oxygen Demand (COD), Arsenic (As), Cadmium (Cd), Cyanide (CN), Lead (Pb), Mercury (Hg), Selenium (Se), Silver (Ag), Zinc (Zn), Copper (Cu), Aluminum (Al), and Iron (Fe). *See id.,* Section B(5)(c)(iii); *see also id.,* Table D.

The West Valley Facility Owners and/or Operators have been conducting operations at the West Valley Facility with an inadequately developed, implemented, and/or revised M&RP. For example, West Valley Facility Owners and/or Operators have failed to analyze storm water samples for all Table D pollutants listed above, and for pollutants likely to be present in the Facility's storm water discharges in significant quantities. Information available to Waterkeeper indicates that pathogens, including *Escherichia coli* and coliform bacteria, are likely to be present in significant quantities in storm water runoff from recycling facilities such as the West Valley Facility. However, the West Valley Facility Owners and/or Operators have not analyzed storm water samples for these, or any, pathogens. The West Valley Facility Owners and/or Operators' failure to collect and analyze storm water samples as required is a violation of Section B(5) of the Storm Water Permit.

The West Valley Facility Owners and/or Operators fail to sample storm water at each storm water discharge point. Since at least the 2007-2008 Wet Season, the West Valley Facility Owners and/or Operators have sampled storm water at only two discharge points, "West Drain" and "East Drain." However, information available to Waterkeeper indicates that there are several storm water discharge points at the Facility. In fact, in the Facility's 2012-2013 Annual Report, the West Valley Facility Owners and/or Operators acknowledge that they failed to sample each discharge location. This failure to sample storm water at each storm water discharge point constitutes a violation of section B(5)(a).

Third, for the first storm event sampled in 2009-2010, the West Valley Facility Owners and/or Operators failed to collect a storm water sample to be analyzed for TOC during the first hour of discharge. While the storm water sample tested for all other pollutants was collected at 8:30 am, the sample tested for TOC was collected at 2:30 pm. This failure to collect a storm water sample during the first hour of discharge constitutes a violation of Section B(5)(a). In addition, the holding time for pH is consistently exceeded, as noted in the laboratory reports included with the Annual Reports. Finally, the detection limits used are often above the EPA Benchmark and CTR standards, thus even when the West Valley Facility Owners and/or Operators report a sample result as Non Detect, or "ND," the pollutant concentration levels are still in excess of permit limits. These deficiencies further evidence the inadequacy of the M&RP.

Fourth, the West Valley Facility Owners and/or Operators fail to conduct quarterly visual observations of unauthorized and authorized discharges, as required by Section B of the Storm Water Permit. First, there is no indication that the observations of both "authorized" and

"unauthorized" non-storm water discharges were made because only one form is used in the 2008-2009 and 2009-2010 Annual Reports to document the required observations entitled "Non-storm water observations." Thus, the West Valley Owners and/or Operators failed to conduct quarterly observations of each type of discharge. Even when one of the non-storm water discharge observations was conducted, they were not done as required. For example, in the 2008-2009 Annual Report, none were made in the July–September quarter and in the 2009-2010 Wet Season, none were made in the October – December quarter. In the 2010-2011 Annual Report the West Valley Owners and/or Operators reported that no non-storm water observations were conducted in the 2nd and 3rd quarters. Because the West Valley Facility Owners and/or Operators failed to take visual observations of non-storm water discharges as required, they also failed to document the presence of any floating or suspended material, O&G, discolorations, turbidity, odor, or the source of any pollutants, in violation of Section B(3) of the Storm Water Permit.

Finally, in violation of Section B(4), the West Valley Facility Owners and/or Operators have failed to adequately conduct monthly Wet Season visual observations, and to report the location of all observations. Specifically, in the 2008-2009 Annual Report, no visual observations were made in October, January, or April; in the 2009-2010 Annual Report, no observations were made in December; and in the 2010-2011 Annual Report, no visual observations were documented in December. In addition, the West Valley Facility Owners and/or Operators failed to report the location of observations made in February, March, May, and June of the 2008-2009 Wet Season; and in all months of the 2009-2010 Wet Season. In the 2011-2012 Annual Report, observations at 4 different discharge locations throughout the 30-acre site were reported as being conducted at the exact same time, and some on days when it reportedly did not rain and thus there was no storm water discharge to observe. In the 2012-2013 Annual Report, observations were taken each month, but were they were improperly conducted on days on which there was no storm water discharge, and/or they were inadequately conducted as the forms used to document the observations are incomplete and lacking information, such as the time the discharge began. Because the West Valley Facility Owners and/or Operators failed to take visual observations of storm water discharges as required, they also failed to document the presence of any floating or suspended material, O&G, discolorations, turbidity, odor, or the source of any pollutants, in violation of Section B(4) of the Storm Water Permit.

The West Valley Facility Owners' and/or Operators' failure to conduct sampling and monitoring as required by the Storm Water Permit demonstrates that they have failed to develop, implement and/or revise an M&RP that complies with the requirements of Section B and Provision E(3) of the Storm Water Permit. The West Valley Facility Owners and/or Operators have been, and will continue to be, in daily and continuous violation of the Storm Water Permit's M&RP requirements each day they operate with an inadequately developed, implemented, and/or revised M&RP. Every day that the West Valley Facility Owners and/or Operators conduct operations with an inadequately developed, implemented, and/or revised M&RP, is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. These violations are ongoing and Waterkeeper will update the number of violations throughout this enforcement action. The West Valley Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since October 8, 2008.

F. Failure to Comply with the Storm Water Permit's Reporting Requirements

Section B(14) of the Storm Water Permit requires a permittee to submit an Annual Report to the Regional Board by July 1 of each year. The Storm Water Permit, in relevant part, requires that the Annual Report include the following: 1) a summary of visual observations and sampling results, 2) an evaluation of the visual observation and sampling and analysis results and the laboratory reports; and 3) the Annual Comprehensive Site Compliance Evaluation Report. Storm Water Permit, Section B(14). As part of the Annual Comprehensive Site Compliance Evaluation, which must be included in the Annual Report, the facility operator shall review and evaluate all of the BMPs to determine whether they are adequate or whether SWPPP revisions are needed. *See* Storm Water Permit, Section A(9). The Annual Report shall be signed and certified by a duly authorized representative, under penalty of law that the information submitted is true, accurate, and complete to the best of their knowledge. *See* Storm Water Permit, Sections B(14), C(9), and C(10).

The West Valley Facility Owners and/or Operators fail to submit Annual Reports that comply with the Storm Water Permit reporting requirements. For example, in the 2007-2008, 2008-2009, and 2009-2010 Annual Reports, the West Valley Facility Owners and/or Operators certified that: (1) a complete Annual Comprehensive Site Compliance Evaluation ("ACSCE") was done pursuant to Section A(9) of the Storm Water Permit; (2) the SWPPP's BMPs address existing potential pollutant sources; and (3) the SWPPP complies with the Storm Water Permit, or will otherwise be revised to achieve compliance. However, information available to Waterkeeper indicates that these certifications were erroneous because an ACSCE that complies with the Storm Water Permit was not conducted, the SWPPP was not evaluated as required, and/or because the BMPs were not evaluated or revised as required. For example, the certifications were made even though the West Valley Facility Owners and/or Operators document violations and specifically note non-compliance. Additionally, in the Facility's 2010-2011 and 2011-2012 Annual Reports, the West Valley Facility Owners and/or Operators admitted that they had failed to comply with the Storm Water Permit on various grounds, and accordingly declined to certify compliance in Section J of the Annual Report. As another example, the 2010-2011 and 2011-2012 Annual Reports are not signed by a responsible corporate officer, and the 2012-2013 Annual Report is not signed at all, in violation of the Storm Water Permit, Section C(9). Finally, the West Valley Owners and/or Operators also certified that they reviewed the SWPPP site map and that it is in compliance with the Storm Water Permit, after they documented the need to revise the SWPPP site map.

The West Valley Facility Owners and/or Operators have also submitted incomplete Annual Reports. For instance, many of the Annual Report's forms used to document visual observations or other information required to be provided with the Annual Report are left blank. In addition, the facility operator must report any noncompliance at the time that the Annual Report is submitted, including 1) a description of the noncompliance and its cause, 2) the period of noncompliance and, if the noncompliance has not been corrected, the anticipated time it is expected to continue, and 3) steps taken or planned to reduce and prevent recurrence of the

noncompliance. Storm Water Permit, Section C(11)(d). The West Valley Owners and/or Operators do not report their non-compliance as required.

Finally, the Storm Water Permit requires a permittee whose discharge exceeds the Storm Water Permit Receiving Water Limitations to submit a written report identifying what additional BMPs will be implemented to achieve water quality standards. Storm Water Permit, Receiving Water Limitations C(3) and C(4). Information available to Waterkeeper indicates that the West Valley Facility Owners and/or Operators have failed to submit the reports required by Receiving Water Limitations C(3) and C(4) of the Storm Water Permit. As such, the West Valley Facility Owners and/or Operators are in daily violation of this requirement of the Storm Water Permit.

Each of the failures to report as required discussed above is a violation of the Storm Water Permit, and indicates a continuous and ongoing failure to comply with the Storm Water Permit's reporting requirements. The West Valley Facility Owners and/or Operators have been, and will continue to be, in daily and continuous violation of the Storm Water Permit's reporting requirements until their reporting complies with the Permit. Every day that the West Valley Facility Owners and/or Operators operate the West Valley Facility without reporting as required by the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). These violations are ongoing and Waterkeeper will update the number of violations throughout this enforcement action. The West Valley Facility Owners and/or Operators have been in daily and continuous violation of the Storm Water Permit's reporting requirements every day. The West Valley Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since October 8, 2008.

IV. RELIEF AND PENALTIES SOUGHT FOR VIOLATIONS OF THE CLEAN WATER ACT

Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Clean Water Act subjects the violator to a penalty for all violations occurring during the period commencing five years prior to the date of a notice of intent to file suit letter. These provisions of law authorize civil penalties of up to $32,500 per day per violation for all Clean Water Act violations between March 15, 2004 and January 12, 2009, and $37,500 per day per violation for all Clean Water Act violations after January 12, 2009. In addition to civil penalties, Waterkeeper will seek injunctive relief preventing further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), declaratory relief, and such other relief as permitted by law. Lastly, pursuant to Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), Waterkeeper will seek to recover its costs, including attorneys' and experts' fees, associated with this enforcement action.

V. CONCLUSION

Upon expiration of the 60-day notice period, Waterkeeper will file a citizen suit under Section 505(a) of the Clean Water Act for the West Valley Facility Owners' and/or Operators'

violations of the Storm Water Permit. During the 60-day notice period, however, Waterkeeper is willing to discuss effective remedies for the violations noted in this Notice Letter. If you wish to pursue such discussions please contact Waterkeeper. Please direct all communications to Waterkeeper's legal counsel:

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Sincerely,

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Attachment A: Table of Storm Water Sampling Data at the West Valley Facility Demonstrating Storm Water Permit Violations

Sampling Date	Sampling Location	Parameter	Sample Result	Units	Benchmark[1]	Magnitude of Benchmark Exceedance	CTR criteria, if exceeded[2, 3]
11/4/08	East Drain	Aluminum	15	mg/L	0.75	20	
11/4/08	East Drain	COD	2600	mg/L	120	21.67	
11/4/08	East Drain	Copper	0.39	mg/L	0.0123	31.71	0.014
11/4/08	East Drain	Iron	22	mg/L	1	22	
11/4/08	East Drain	TOC	640	mg/L	110	5.82	
11/4/08	East Drain	pH	5.9	pH Units	6.0-9.0	n/a	
11/4/08	East Drain	SC	1100	umhos/cm	200	5.5	
11/4/08	East Drain	TSS	850	mg/L	100	8.5	
11/4/08	East Drain	Zinc	1.7	mg/L	0.11	15.45	
11/4/08	West Drain	Aluminum	6.1	mg/L	0.75	8.13	
11/4/08	West Drain	COD	1700	mg/L	120	14.17	
11/4/08	West Drain	Iron	10.0	mg/L	1.0	10	
11/4/08	West Drain	SC	1300	umhos/cm	200	6.5	
11/4/08	West Drain	TOC	610	mg/L	110	5.55	
11/4/08	West Drain	TSS	210	mg/L	100	2.1	
11/4/08	West Drain	Zinc	1.1	mg/L	0.11	10	
12/15/08	East Drain	Aluminum	2.6	mg/L	0.75	3.47	

[1] Copper and zinc are water hardness dependent. The EPA Benchmarks listed in this table are based on a hardness of 75-100 mg/L. *See* Multi-Sector Permit, pp. 89 and 102 (Subsector K and N Benchmark Values).

[2] The CTR criteria for "priority toxic pollutants" are set forth in 40 C.F.R. § 131.38. These criteria are expressed as dissolved metal concentrations in the CTR. However, the Storm Water Permit requires permittees to report their sample results as total metal concentrations. *See* Storm Water Permit, Section B(10)(b). In order to compare the sample results reported in the Jack's Disposal Facility's Annual Reports with the CTR criteria, Waterkeeper used the CTR criteria converted to total metal concentrations set forth in the State Board's "Water Quality Goals" database, available at http://www.waterboards.ca.gov/water_issues/programs/water_quality_goals/. The formula used to convert the CTR criteria to total metal concentrations is set forth in the CTR at 40 C.F.R. § 131.38(b)(2)(i).

[3] WQS for copper and zinc are hardness dependent. The CTR criteria listed in this table are based on an assumed hardness of 100 mg/L. *See* 40 C.F.R. § 131.38.

12/15/08	East Drain	COD	150	mg/L	120	1.25	
12/15/08	East Drain	Copper	0.038	mg/L	0.0123	3.09	0.014
12/15/08	East Drain	Iron	3.5	mg/L	1.0	3.5	
12/15/08	East Drain	Zinc	0.14	mg/L	0.11	1.27	
12/15/08	West Drain	Aluminum	7.7	mg/L	0.75	10.27	
12/15/08	West Drain	COD	620	mg/L	120	5.17	
12/15/08	West Drain	TOC	120	mg/L	110	1.09	
12/15/08	West Drain	Copper	0.077	mg/L	0.0123	6.26	0.014
12/15/08	West Drain	Iron	10.0	mg/L	1.0	10	
12/15/08	West Drain	SC	1100	umhos/cm	200	5.5	
12/15/08	West Drain	TSS	290	mg/L	100	2.9	
12/15/08	West Drain	Zinc	0.41	mg/L	0.11	3.73	
10/14/09	East Drain	Aluminum	32.0	mg/L	0.75	42.67	
10/14/09	East Drain	COD	3600	mg/L	120	30	
10/14/09	East Drain	Copper	0.49	mg/L	0.0123	39.84	0.014
10/14/09	East Drain	Iron	49.0	mg/L	1.0	49	
10/14/09	East Drain	Lead	0.36	mg/L	0.069	5.22	0.082
10/14/09	East Drain	pH	5.9	pH Units	6.0-9.0	n/a	
10/14/09	East Drain	SC	730	umhos/cm	200	3.65	
10/14/09	East Drain	TOC	880	mg/L	110	8	
10/14/09	East Drain	TSS	3000	mg/L	100	30	
10/14/09	East Drain	Zinc	3	mg/L	0.11	27.27	
10/14/09	West Drain	Aluminum	5.8	mg/L	0.75	7.73	
10/14/09	West Drain	COD	1900	mg/L	120	15.83	
10/14/09	West Drain	Copper	0.088	mg/L	0.0123	7.15	0.014
10/14/09	West Drain	Iron	8.6	mg/L	1.0	8.6	
10/14/09	West Drain	SC	1300	umhos/cm	200	6.5	
10/14/09	West Drain	TOC	590	mg/L	110	5.36	
10/14/09	West Drain	TSS	330	mg/L	100	3.3	
10/14/09	West Drain	Zinc	0.42	mg/L	0.11	3.82	
12/7/09	East Drain	Aluminum	19	mg/L	0.75	25.33	
12/7/09	East Drain	COD	1000	mg/L	120	8.33	

12/7/09	East Drain	Copper	0.35	mg/L	0.0123	28.46	0.014
12/7/09	East Drain	Iron	31.0	mg/L	1.0	31	
12/7/09	East Drain	Lead	0.3	mg/L	0.069	4.35	0.082
12/7/09	East Drain	SC	460	umhos/cm	200	2.3	
12/7/09	East Drain	TOC	270	mg/L	110	2.45	
12/7/09	East Drain	TSS	2200	mg/L	100	22	
12/7/09	East Drain	Zinc	1.8	mg/L	0.11	16.36	
12/7/09	West Drain	Aluminum	22	mg/L	0.75	29.33	
12/7/09	West Drain	COD	2400	mg/L	120	20	
12/7/09	West Drain	Copper	0.14	mg/L	0.0123	11.38	0.014
12/7/09	West Drain	Iron	32.0	mg/L	1.0	32	
12/7/09	West Drain	Lead	0.12	mg/L	0.069	1.74	0.082
12/7/09	West Drain	SC	700	umhos/cm	200	3.5	
12/7/09	West Drain	TOC	430	mg/L	110	3.91	
12/7/09	West Drain	TSS	1200	mg/L	100	12	
12/7/09	West Drain	Zinc	0.77	mg/L	0.11	7	
10/6/10	East Drain	Aluminum	13.0	mg/L	0.75	17.33	
10/6/10	East Drain	COD	3600	mg/L	120	30	
10/6/10	East Drain	Copper	0.38	mg/L	0.0123	30.89	0.014
10/6/10	East Drain	Iron	26.0	mg/L	1.0	26	
10/6/10	East Drain	Lead	0.16	mg/L	0.069	2.32	0.082
10/6/10	East Drain	pH	4.9	pH Units	6.0-9.0	n/a	
10/6/10	East Drain	SC	1600	umhos/cm	200	8	
10/6/10	East Drain	TOC	1000	mg/L	110	9.09	
10/6/10	East Drain	TSS	890	mg/L	100	8.9	
10/6/10	East Drain	Zinc	1.8	mg/L	0.11	16.36	
10/6/10	West Drain	Aluminum	10.0	mg/L	0.75	13.33	
10/6/10	West Drain	COD	2900	mg/L	120	24.17	
10/6/10	West Drain	Copper	0.16	mg/L	0.0123	13.01	0.014
10/6/10	West Drain	Iron	17.0	mg/L	1.0	17	
10/6/10	West Drain	pH	5.9	pH Units	6.0-9.0	n/a	
10/6/10	West Drain	SC	1800	umhos/cm	200	900	

10/6/10	West Drain	TOC	890	mg/L	110	8.09	
10/6/10	West Drain	TSS	370	mg/L	100	3.7	
10/6/10	West Drain	Zinc	0.67	mg/L	0.11	6.09	
12/29/10	East Drain	Aluminum	11.0	mg/L	0.75	14.67	
12/29/10	East Drain	COD	1400	mg/L	120	11.67	
12/29/10	East Drain	Copper	0.13	mg/L	0.0123	10.57	0.014
12/29/10	East Drain	Iron	16.0	mg/L	1.0	16	
12/29/10	East Drain	SC	260	umhos/cm	200	1.3	
12/29/10	East Drain	TSS	680	mg/L	100	6.8	
12/29/10	East Drain	Zinc	0.87	mg/L	0.11	7.91	
12/29/10	West Drain	Aluminum	7.2	mg/L	0.75	9.6	
12/29/10	West Drain	COD	1600	mg/L	120	13.33	
12/29/10	West Drain	Copper	0.069	mg/L	0.0123	5.61	0.014
12/29/10	West Drain	Iron	12.0	mg/L	1.0	12	
12/29/10	West Drain	SC	710	umhos/cm	200	3.55	
12/29/10	West Drain	TOC	230	mg/L	110	2.09	
12/29/10	West Drain	TSS	350	mg/L	100	3.5	
12/29/10	West Drain	Zinc	0.35	mg/L	0.11	3.18	
10/5/11	East Drain	Aluminum	33.0	mg/L	0.75	44	
10/5/11	East Drain	COD	4900	mg/L	120	40.83	
10/5/11	East Drain	Copper	0.17	mg/L	0.0123	13.82	0.014
10/5/11	East Drain	Iron	11.0	mg/L	1.0	11	
10/5/11	East Drain	pH	5.2	pH Units	6.0-9.0	n/a	
10/5/11	East Drain	SC	1700	umhos/cm	200	8.5	
10/5/11	East Drain	TOC	1300	mg/L	110	11.82	
10/5/11	East Drain	TSS	2500	mg/L	100	25	
10/5/11	East Drain	Zinc	0.55	mg/L	0.11	5	
10/5/11	West Drain	Aluminum	31.0	mg/L	0.75	41.33	
10/5/11	West Drain	COD	230	mg/L	120	1.92	
10/5/11	West Drain	Copper	0.79	mg/L	0.0123	64.23	0.014
10/5/11	West Drain	Iron	57.0	mg/L	1.0	57	
10/5/11	West Drain	Lead	0.37	mg/L	0.069	5.36	0.082

10/5/11	West Drain	SC	1300	umhos/cm	200	6.5	
10/5/11	West Drain	TSS	300	mg/L	100	3	
10/5/11	West Drain	Zinc	4.1	mg/L	0.11	37.27	
2/15/12	East Drain	Aluminum	6.0	mg/L	0.75	8	
2/15/12	East Drain	COD	960	mg/L	120	8	
2/15/12	East Drain	Copper	0.074	mg/L	0.0123	6.02	0.014
2/15/12	East Drain	Iron	9.3	mg/L	1.0	9.3	
2/15/12	East Drain	SC	1100	umhos/cm	200	5.5	
2/15/12	East Drain	TSS	480	mg/L	100	4.8	
2/15/12	East Drain	Zinc	0.45	mg/L	0.11	4.09	
2/15/12	West Drain	Aluminum	8.5	mg/L	0.75	11.33	
2/15/12	West Drain	COD	2400	mg/L	120	20	
2/15/12	West Drain	Copper	0.031	mg/L	0.0123	2.52	0.014
2/15/12	West Drain	Iron	15.0	mg/L	1.0	15	
2/15/12	West Drain	SC	1700	umhos/cm	200	8.5	
2/15/12	West Drain	TOC	440	mg/L	110	4	
2/15/12	West Drain	TSS	1100	mg/L	100	11	
2/15/12	West Drain	Zinc	0.15	mg/L	0.11	1.36	
10/12/12	East Drain	Aluminum	4.9	mg/L	0.75	6.53	
10/12/12	East Drain	COD	510	mg/L	120	4.25	
10/12/12	East Drain	Copper	0.056	mg/L	0.0123	4.55	0.014
10/12/12	East Drain	Iron	7.1	mg/L	1.0	7.1	
10/12/12	East Drain	SC	210	umhos/cm	200	1.05	
10/12/12	East Drain	TSS	280	mg/L	100	2.8	
10/12/12	East Drain	Zinc	0.53	mg/L	0.11	4.82	0.12
10/12/12	West Drain	Aluminum	41.0	mg/L	0.75	54.67	
10/12/12	West Drain	COD	2800	mg/L	120	23.33	
10/12/12	West Drain	Copper	0.17	mg/L	0.0123	13.82	0.014
10/12/12	West Drain	Iron	55.0	mg/L	1.0	55	
10/12/12	West Drain	Lead	0.12	mg/L	0.069	1.74	0.082
10/12/12	West Drain	SC	490	umhos/cm	200	2.45	
10/12/12	West Drain	TSS	1600	mg/L	100	16	

10/12/12	West Drain	Zinc	0.71	mg/L	0.11	6.45	0.12
2/15/13	East Drain	Aluminum	6.0	mg/L	0.75	8	
2/15/13	East Drain	COD	960	mg/L	120	8	
2/15/13	East Drain	Copper	0.074	mg/L	0.0123	6.02	0.014
2/15/13	East Drain	Iron	9.3	mg/L	1.0	9.3	
2/15/13	East Drain	SC	1100	umhos/cm	200	5.5	
2/15/13	East Drain	TSS	480	mg/L	100	4.8	
2/15/13	East Drain	Zinc	0.45	mg/L	0.11	4.09	0.12
2/15/13	West Drain	Aluminum	8.5	mg/L	0.75	11.33	
2/15/13	West Drain	COD	2400	mg/L	120	20	
2/15/13	West Drain	Copper	0.031	mg/L	0.0123	2.52	0.014
2/15/13	West Drain	Iron	15.0	mg/L	1.0	15	
2/15/13	West Drain	SC	1700	umhos/cm	200	8.5	
2/15/13	West Drain	TOC	440	mg/L	110	4	
2/15/13	West Drain	TSS	1100	mg/L	100	11	
2/15/13	West Drain	Zinc	0.15	mg/L	0.11	1.36	0.12